

Claims 1-4, 8-12, 14-16, and 19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Geistauts (US 3,128,768).

Claims 5-7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Geistauts in view of Simpson (US 5,047,040).

Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Geistauts in view of Zurbrugg (US 5,219,174).

Claim 17 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Geistauts.

Claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Geistauts in view of Huebner (US 6,030,162).

Applicant respectfully traverses these rejections in view of the comments that follow.

Discussion of Geistauts

Claims 1-4, 8-12, 14-16, and 19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Geistauts. This rejection is respectfully traversed. An anticipation rejection requires that each and every element of the claimed invention as set forth in the claim be provided in the cited reference. See *Akamai Technologies Inc. v. Cable & Wireless Internet Services Inc.*, 68 USPQ2d 1186 (CA FC 2003), and cases cited therein. As discussed in detail below, Geistauts does not meet the requirements for an anticipation rejection.

Geistauts discloses a surgical drilling tool having a drill guide with a plurality of telescoping housing sections 10, 11, and 12 (Col. 1, lines 55-56). A drill 16 is adapted to be held firmly in a drill support 17 by means of a set screw 18, which passes through a threaded aperture 10D in portion 10A of housing section 10 (Col. 2, lines 9-15). The exposed end 17C of the drill support 17 is adapted to receive a chunk C of any suitable hand or motor driven device D by which the drill support and everything attached to it may be rotated (Col. 2, lines 18-22).

In rejecting claim 1, the Examiner indicates that the set screw 18 prevents rotation of the housing section 10 of Geistauts relative to the drilling machine when the drill bit is inserted into the drilling machine. Applicant respectfully submits that the Examiner has misinterpreted the disclosure of Geistauts.

In Geistauts, the set screw 18 passes through an aperture 10D in the housing section 10, and secures the housing section 10, the drill 16, and the drill support 17 together, as can be seen from Figures 2 and 5. The housing section 10, drill 16, and drill support 17 rotate together, as indicated by the arrow on the right hand side of Figure 1. Geistauts specifically indicates that “Accordingly, the set screw 18 not only serves firmly to attach the drill 16 to the drill support 17, but also as a key, to prevent rotation of the drill guide 10 in the threads 10B, 17B.” (Error corrected - the Geistauts specification indicates “to prevent rotation of drill guide 17 in the threads 10B, 17B”. However, reference numeral 17 refers to the drill support, and it is clearly housing section 10 of the guide that contains the threads 10B that mate with the threads 17B of the drill support 17).

With the device of Geistauts, the end 17C of the drill support 17 is inserted into the drilling device, and the drill support, and everything attached to it (i.e., the drill 16 and the housing section 10), is rotated with the drill (Col. 2, lines 18-22).

Further, Geistauts at Column 2, lines 41-43 indicates that with the seat points 20 which extend from collar 13 firmly seated in the bone to be drilled, “the drilling device D is rotated, and this causes rotation of the drill support 17 and section 10”. Accordingly, the housing section 10 of Geistauts is secured to and rotates with the drill 16 and the drill support 17, and thus section 10 rotates with the drilling machine.

Contrary to the device disclosed in Geistauts, with Applicant’s claimed invention, the proximal protective sleeve comprises a rotation preventing means, which prevents rotation of the proximal protective sleeve relative to the drilling machine. In other words, with Applicant’s claimed invention, the proximal protection sleeve does not rotate.

Geistauts does not disclose or remotely suggest a drilling tool for surgical drilling having a proximal protective sleeve comprising a rotation preventing means that prevents rotation of the proximal protective sleeve relative to the drilling machine, as claimed by Applicants. Contrary to the Examiner’s assertions, the set screw 18 of Geistauts does not comprise a rotation preventing means which prevents rotation of the Housing section 10 relative to the drilling machine. Rather, the set screw 18 of Geistauts provides the contrary effect, as it secures the housing section 10 to

the drill 16 and the drill support 17, which enables the housing section 10 to rotate with the drilling machine.

As Geistauts does not disclose each and every element of the invention as claimed, the rejections under 35 U.S.C. § 102(b) are believed to be improper, and withdrawal of the rejections is respectfully requested. See, *Akamai Technologies Inc., supra*.

Applicants respectfully submit that the present invention is not anticipated by and would not have been obvious to one skilled in the art in view of Geistauts, taken alone or in combination with any of the other prior art of record.

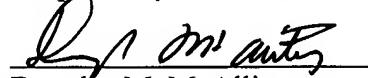
Withdrawal of the rejections under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) is therefore respectfully requested.

Further remarks regarding the asserted relationship between Applicant's claims and the prior art are not deemed necessary, in view of the above discussion. Applicant's silence as to any of the Examiner's comments is not indicative of an acquiescence to the stated grounds of rejection.

Conclusion

In view of the above, the Examiner is respectfully requested to reconsider this application, allow each of the presently pending claims, and to pass this application on to an early issue. If there are any remaining issues that need to be addressed in order to place this application into condition for allowance, the Examiner is requested to telephone Applicant's undersigned attorney.

Respectfully submitted,



Douglas M. McAllister
Attorney for Applicant(s)
Registration No. 37,886
Lipsitz & McAllister, LLC
755 Main Street
Monroe, CT 06468
(203) 459-0200

ATTORNEY DOCKET NO.: HOE-762
Date: March 31, 2005